FRESH PRODUCE ASSOCIATION OF THE AMERICAS

Post Office Box 848
Nogales, Arizona 85628-0848
www.fpaota.org

(520) 287-2707
Fax (520) 287-2948/287-5430
info@fpaota.org

February 20, 2003

Country of Origin Labeling Program
Agricultural Marketing Service
U.S. Department of Agriculture
STOP 0249, Room 2092-S
1400 Independence Ave., SW
Washington, DC 20250-0249

Attention: Desk Officer
Office of Management and Budget
New Executive Office Building
725 17th St., NW
Room 725
Washington, DC 20503

Clearance Officer
USDA-OCIO
STOP 7602, Room 404-W
Jamie L. Whitten Building
1400 Independence Ave, SW
Washington, DC 20250-7602

Docket Number: LS-02-16
Re: Country of Origin Labeling Recordkeeping Costs and Systems

The Fresh Produce Association of the Americas (FPAA) appreciates the opportunity to comment on the recordkeeping costs and necessary systems to comply with requirements established in the Country of Origin Labeling (COOL) regulations. The FPAA is a non-profit trade association representing approximately 120 U.S. companies involved in the importation and distribution of produce from Mexico.

The FPAA strongly believes the development of new recordkeeping systems and the costs associated with ongoing maintenance of the records will certainly be a large expense for the industry. Suggestions that existing recordkeeping procedures would be sufficient and inexpensive for retailers to comply with COOL regulations and audits, are not accurate. Currently, PACA requires that records such as the bill of lading be kept from directly below and above each company on the sales chain. Unfortunately, depending on which step in the supply chain you examine, a bill of lading may or may not have the country of origin listed, even though the information is written on the box or carton. Purchases directly from a retailer to a grower are limited. Many retailers purchase items from wholesalers or category managers who source products from multiple sources. The bill of lading will list the quantity and types of commodities in a shipment and the first previous sales agent, but will not list country of origin due to the vast amounts of sourcing options. Unless the USDA has the resources to spend tracing each bill of lading through the sales chain to determine if the correct country of origin was displayed with the correct produce item, the current system is greatly inadequate.

Therefore, retailers will need to develop new recordkeeping systems to comply with COOL regulations. They will also need to devote employee hours to keying country of origin entries into the new databases. U.S. Customs requires that all imported produce items list country of origin on the master carton or individually wrapped packages. An employee would need to examine each individual container and enter the country of origin information into the database each time produce displays are replenished. FMI estimates that stores carry over 300 produce items on any given day. For the purpose of projecting a conservative estimate, the FPAA uses 200 items in its cost analysis. On average, a produce display is replenished 5 or 6 times in one day. The FPAA will use the conservative estimate of 3 times daily and will reduce the USDA's $50 hourly wage estimate to $25. In contrast to the 31,000 retail stores with PACA licenses, the U.S. Census Bureau, in the 1997 Economic Census of Retail Trade, states there are 69,461 supermarket and grocery establishments. If it takes only 15 seconds to verify country of origin, key each entry into the database, and reconfirm if the correct placard is currently displayed, the annual cost for retailers would be $1.58 billion annually for produce items alone.

This does not include the cost to develop software and purchase equipment to maintain a database of this type. It also does not include the hours retailers would have to spend entering the country of origin on each bill of lading for each commodity item at each retail location so that the bill of lading has some relevance for inspectors. Again, this would be necessary because a bill of lading does not always list country of origin, especially when retailers source from category managers or wholesalers that buy from many sources. Unless USDA can devote resources to tracing this information through several previous sales steps, retailers would need to manually write in the information on the bill of lading. Additionally, the $1.58 billion estimate does not include convenience stores that now stock produce items that are covered under the COOL regulations or the specialty food stores that carry any number of items covered under the regulations. The 1997 Economic Census states there are 27,081 convenience stores and 22,373 specialty food stores. If one underestimates that only 1/3 or 9,027 convenience stores carry produce items, and only 2/3 or 14,915 specialty food stores carry regulated items, it would still be a significant cost to comply.

Given this burden on retailers, we are concerned that they may eliminate bulk sales, forcing all products into individually packaged containers. This will significantly increase costs to both consumers and producers, reduce total produce sales, and limit consumer choice.

More importantly, the $1.58 billion does not include costs for USDA audits and enforcement. Even if new recordkeeping systems were in place at each retail location, auditing and enforcing country of origin labeling will require a vast effort on the part of the USDA. If USDA inspectors worked 260 days a year (excluding weekends but including holidays), they would have to audit approximately 267 supermarkets and grocery stores each day to ensure that all 69,461 locations were audited once a year. If convenience and specialty food store locations were included, the USDA would have to inspect approximately 359 locations each day in a 260-day work-year. The FPAA and its members are concerned about the cost that would be imposed on the industry to pay for this new, unfunded mandate for enforcement purposes alone.

In summary, the FPAA sees that there will be significant upfront as well as ongoing costs for retailers for record keeping, new enforcement costs that may result in increased industry fees, and the potential for significant new costs to consumers and producers if bulk sales are significantly reduced.

Sincerely,

Lee Frankel

Lee Frankel
President
Fresh Produce Association of the Americas